



## Early Stakeholder Outreach Municipal Solid Waste Landfill Operations Rule: OAC Rule 3745-27-19

*Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the review process as early as possible and to obtain additional input and discussion before development of interested party draft rules.*

### What does this OAC Rule cover?

The following rule in Chapter 3745-27 of the Ohio Administrative Code (OAC) covers operations of solid waste landfills that are authorized or were authorized to dispose of municipal solid waste.

### Why is this rule being sent out for Early Stakeholder Outreach?

OAC Rule 3745-27-19 is scheduled for its five-year review under Section 106.03 of the Ohio Revised Code (ORC). Ohio EPA Division of Materials and Waste Management is seeking early stakeholder input on revisions to this solid waste landfill rule to gain feedback on opportunities to improve the rule. As part of the rule-making process, Ohio EPA would like to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rule. The Ohio EPA is offering your organization the opportunity to comment on this rule before the division formally proposes it.

The first step in the ORC Section 106.03 five-year review is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created. In response to Executive Order 2011-01K, Ohio EPA has added an additional step to ensure stakeholders are brought into the rule process as early as possible. This additional interested party notification and request for information will allow for early feedback before the rule language has been developed by the Agency.

### What changes are being considered?

Ohio EPA is currently considering the following changes:

- Incorporating or referencing statutory changes that have occurred since the last five-year review. Statutory changes include:
  - ORC Section 3734.02(O) regarding the disposal of secondary aluminum waste or municipal solid waste that has been commingled with secondary aluminum waste.
  - ORC Section 3734.02(P) regarding the acceptance of technologically enhanced naturally occurring

### How can I provide input?

The Agency is seeking stakeholder input on OAC Rule 3745-27-19.

When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business August 10, 2020. Please submit input to:

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### What if I have questions about the rule?

Please contact Holly Hillyer at (614) 728-5348 or [holly.hillyer@epa.ohio.gov](mailto:holly.hillyer@epa.ohio.gov)

radioactive material (TENORM) for disposal if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

- ORC Section 3734.02(P) regarding the acceptance of TENORM associated with drilling operations without first obtaining representative analytical results.
- The recent enactment of ORC Section 3734.578 regarding solid waste approved as alternative daily cover.
- Opportunities for minor wording clarifications, citation updates, and formatting changes. For example, language in ORC Section 3734.05(A)(3) and (4) was recently deleted, which necessitates updating rule citations to ORC Section 3734.05(A).
- Other subjects for consideration and stakeholder input:
  - Specify what amount of erosion is acceptable on intermediate cover.
  - Specify requirements for when transitional cover and final cover are to be constructed.
  - Revise how alternative daily cover is approved, in order to streamline this approval process.
  - Specify that there is one permanent working face, while retaining allowances for an additional working face for select waste layer and phase completion. Also place limits on the size of the working face(s).
  - Establish minimum waste compaction equipment requirements. This could be based on the size of the working face or the authorized maximum daily waste receipt (AMDWR). The Agency would like to ensure consistent application of compaction equipment to reduce potential operational problems.
  - Add an operational requirement to maintain leachate head at or below one foot on the liner. While this has been a design standard in the rules for some time, the Agency is looking to add an operational standard to ensure compliance with this design standard.
  - Increase the minimum capacity requirements for leachate storage to account for surges due to precipitation events. The Agency would like to ensure consistency of leachate storage statewide by specifying minimal storage capacity. This will safeguard against environmental consequences resulting from additional head pressure on the landfill liner, allow for appropriate leachate management during periods of unusually high precipitation and affording increased storage flexibility should public water treatment plants unexpectedly experience capacity treatment issues.
  - Specify that filling of a new phase can occur prior to completing a previous phase. The Agency recognizes that there may be times when an owner or operator desires to move into a new phase before the current phase is filled, but the current language needs to be clarified so everyone understands the regulatory compliance expectation.
  - Specify requirements for sedimentation pond inspection and cleanout frequency.
  - Revise requirement to allow waste authorized for use as daily cover or road base to be stored in an area other than the working face and exclude it from the facility's AMDWR.

### **Who is regulated by this rule?**

This rule applies to owners and operators of permitted and licensed solid waste landfills that are authorized or were authorized to dispose of municipal solid waste. This includes 38 operating solid landfills that are owned and operated by businesses, governmental entities, and local solid waste management districts.

### **What is the rulemaking schedule?**

After consideration of stakeholder input, Ohio EPA will prepare a recommendation to amend this rule. The Agency's next step is then to release a draft version of any amendments for interested party review and

comment.

A complete summary of [Ohio EPA's rule-making process](http://epa.ohio.gov/Rules.aspx) is available at <http://epa.ohio.gov/Rules.aspx>. Future steps will also include formally filing the proposed rule with the Joint Committee on Agency Rule Review (JCARR). At that time, JCARR will include the proposed rule on their meeting agenda and take public testimony. Visit JCARR's website for meeting dates and agenda items at <http://www.jcarr.state.oh.us/>.

### **How can I track the program and rule-development progress?**

Stakeholders are encouraged to sign up for the Agency's electronic mailing list, which provides automatic updates about various topics. Registered users will receive progress updates and be notified when new information is posted on the program website ([epa.ohio.gov/dmwm/dmwmnonhazrules.aspx](http://epa.ohio.gov/dmwm/dmwmnonhazrules.aspx)). To sign up, go to [ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage](http://ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage).

### **What input is the Agency seeking?**

Ohio EPA is seeking specific input on all provisions of OAC Rule 3745-27-19, whether or not related to the topics listed above.

The following questions may help guide you as you develop your comments:

- What is not working within the rule?
- What options are available for improving the rule?
- Are there considerations the Agency should take into account when developing or revising the rule?
- Is there any information or data the Agency should be aware of when developing program concepts or rule language?

Ohio EPA would especially like to hear from businesses and municipalities on how they may be impacted by this rule:

- Would proposed changes to OAC Rule 3745-27-19 have a positive impact on your business? Please explain.
- If you feel that this rule has an adverse impact to business, as defined in ORC Section 107.52, please provide a summary of the estimated cost of compliance with the rule. Specifically, please identify the scope of the impacted business community; identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance); and quantify, to the best of your ability, the expected adverse impact from the regulation. The adverse impact can be quantified in terms of dollars, hours to comply, or other factors.

### **Contact**

For more information, contact Holly Hillyer at (614) 728-5348 or [holly.hillyer@epa.ohio.gov](mailto:holly.hillyer@epa.ohio.gov).